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In re Application of
LEAH, et al. : DECISION ON
U.S. Application No.: 10/588,897 :
PCT No.: PCT/GB05/00355 : RENEWED PETITION
Int. Filing Date: 02 February 2005 :
Priority Date: 10 February 2004 : UNDER 37 CFR 1.181
Atty Docket No.: XA-10629 :
For: A METHOD AND APPARATUS FOR
OPERATING A SOLID-OXIDE FUEL CELL
STACK WITH A MIXED....ELECTROLYTE :
:

This decision is in response to applicant's renewed petition under 37 CFR 1.181 filed 30 March 2009 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 30 January 2009, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 and notification of abandonment.

On 30 March 2009, applicant filed the present request for reconsideration.

DISCUSSION

Applicant's present request for reconsideration does not contain a rationale for withdrawing the holding of abandonment. Applicant states that it was understood, "that the Office was simply seeking clear and legible addresses for all the inventors." However, the "Notification of Defective Response" (Form PCT/DO/EO/916) mailed 30 October 2008 clearly indicated that the declaration filed 14 October 2008 was defective and that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be furnished within one month. The notice further provided an explanation as to why the declaration was defective and advised applicant to resubmit an oath or declaration. In response applicant provided a supplemental application data sheet and an argument that the Form PCT/DO/EO/916 should have not been mailed. This was not a proper reply and has the period for responding has expired the application was properly held abandoned.

It is further noted that the four page combined declaration and power of attorney filed 02 April 2009 is also non-compliant. Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declaration contains three separate signature pages one executed by the inventors Leah and Schmidt, one executed by Brandon and one executed by inventor Koury. This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

RECOMMENDATION

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

For the reasons detailed above, applicant's renewed petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

This application is being forward to the Office of PCT Operations, National stage processing for the preparation and mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).



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